

## REMARKS / DISCUSSION OF ISSUES

In response to the Office Action dated July 31, 2008, Applicant respectfully requests reconsideration. All of the issues raised in the Office Action have been carefully considered and are addressed herein. The application as presented is believed to be in allowable condition.

No amendments have been made to pending claims 1-20 and, therefore, no listing of the claims is required per 37 CFR 1.121.

### *I. Claim Rejections under 35 U.S.C. §103*

Claims 1-20 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over U.S. Patent 5,905,442 to Mosebrook *et al.* ("Mosebrook") and U.S. Patent Application Publication No. 2002/0042282 by Haupt ("Haupt"). For at least the reasons set forth below, Applicants respectfully submit that the rejections are improper and should be withdrawn.

It is well established that a rejection for obviousness requires the disclosure of all features of a claim in properly combinable art. In that regard, the Supreme Court recently reminded that "[a] factfinder should be aware...of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning.<sup>1</sup> If there is no suggestion to combine the teachings of the applied art, other than the use of Applicants' invention as a template for its own reconstruction, a rejection for obviousness is improper.<sup>2</sup> In furtherance to the need for the suggestion to combine the teachings of the applied art, it is established that rejections on obviousness grounds cannot be sustained by mere conclusory statements: instead there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.<sup>3</sup>

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<sup>1</sup> *KSR Int'l Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007). See also *Graham v. John Deere Co.*, 383 U.S. 1 (1966) (warning against a "temptation to read into the prior art the teachings of the invention in issue" and instructing courts to "guard against slipping into the use of hindsight.")

<sup>2</sup> *Ex parte Crawford, et al.* Appeal 20062429, May 30, 2007.

<sup>3</sup> *KSR Int'l v. Teleflex*, 127 S. Ct. at 1741.

Claim 1 is drawn to a lighting control network and features:

***a remote control unit having a RF signal transmitter and a RF signal receiver; and a plurality of lighting control units, each of said lighting control units having a RF signal transmitter, a RF signal receiver, and a lighting unit associated therewith, wherein said remote control unit and said plurality of lighting control units are configured in a master-slave oriented network, one of said plurality of lighting control units and said remote control unit being configured as a master in said network and remaining lighting control units of said plurality of lighting units and said remote control unit being configured as slaves in said network, and said plurality of lighting control units and said remote control unit communicating bi-directionally with each other via a RF wireless link.***

Claim 11, which is drawn to a method, includes similar features to those cited emphasized above.

Remote control units 40, 42 and the lighting control units 5, 15 and 25 are shown in an exemplary embodiment in Fig. 1. Notably, control unit 5 functions as the master in this embodiment.

A. *Mosebrook and Haupt Fail to Disclose All Claimed Elements*

The application of *Mosebrook* is essentially identical to the rejection for anticipation in the most recent Office Action. The Office Action again directs Applicant to:

- the master control device 20 and the repeater 40 of *Mosebrook* for the alleged disclosure of the remote control unit;
- the control units 20, 30, 40 and 50 for the alleged disclosure of the lighting control units; and
- either control unit 20 or 30 for the alleged disclosure of the master control device.

As should be appreciated from this brief summary of a part of the rejection, certain elements of the reference are applied to multiple features of the claim. Facialy, this would suggest an under-inclusive set of elements for the features of the claims. For example, the master control device 20 is relied upon not only for the remote control unit; but also for the master control unit. Respectfully, if one were to follow this reasoning, it logically follows that the reference fails to disclose either the remote control unit or the master control unit, which are not one and the same, yet are relied upon for the teaching of two separate elements. A

review of Fig. 1 and its supporting description in *Mosebrook* does not reveal the disclosure or suggestion of both a remote control unit and a master unit as specifically recited, but rather a master unit and control units.

The Office Action alleged that the remote control unit 20 can be configured as a master and the remote control unit 40 can be configured as the slave or repeater. At the outset, claim 1 does not recite a repeater, but rather a slave. Moreover, the Office Action asserts that the remote control unit **can** be configured as a master and the remote control unit **can** be configured as a slave, yet there is no clear reference to the particular part relied upon for this assertion provided. A review of column 11 as cited in the Office Action reveals the disclosure of a master control device 20 and a repeater 40, but does not disclose the configuration as suggested in the Office Action. A review of the abstract and column 32 fails to cure this deficiency.

The Office Action then directs Applicants to *Haupt* for the alleged disclosure of a master remote unit in central unit 1 and a plurality of slaves (in mobile apparatuses 4-9). The applied art does disclose a central unit and slaves but fails to disclose that any slaves are ***lighting control units of a plurality of lighting units***. Stated somewhat differently, the slaves may be controlled by a master, but the slaves **are not lighting control units**.

Thus, and for at least the reasons set forth above, Applicants respectfully submit that the prior art of record fails to disclose at least one feature of each of claims 1 and 11.

*B. The Combination of Mosebrook and Haupt is Improper*

Further, the Office Action states:

“Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the above teaching of *Mosebrook* with *Haupt*, in order to provide directly or indirectly controlled by the central unit (master unit) (see suggested by *Haupt* on page 2, section [0029]).”

At the outset, this apparent motivation to combine references seems to be incomplete or grammatically flawed. Assuming arguendo, however, that the master/slave teachings of *Haupt* were substantively that which is claimed, the Office Action provides no substantive basis

as to why the references would be combined. Instead of articulated reasoning with some rational underpinning to support the legal conclusion of obviousness, the Office Action offers just a conclusory statement quoted above. Review of paragraph [0029] does not reveal any motivation to combine the *Haupt* with *Mosebrook*, either, but rather provides merely an introductory description of the central unit 1 and mobile apparatuses 4-9, among other devices.

For at least the reasons set forth above, Applicant respectfully submits that the rejection of claims 1 and 11 for obviousness is improper and should be withdrawn.

C. General Comments on Rejections of Dependent Claims

Since each of the dependent claims depends from a base claim that is believed to be in condition for allowance, Applicant believes that it is unnecessary at this time to argue the allowability of each of the dependent claims individually. Applicant does not, however, necessarily concur with the interpretation of any dependent claim as set forth in the Office Action, nor do Applicant concurs that the basis for the rejection of any dependent claim is proper. Therefore, Applicant reserves the right to specifically address the patentability of the dependent claims in the future, if deemed necessary.

### **CONCLUSION**

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue, or comment set forth in the Office Action does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Furthermore, nothing in this paper should be construed as intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify any concession of unpatentability of the claim prior to its amendment. In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call one of Applicant's representatives at the telephone number indicated below to discuss any outstanding issues relating to the allowability of the application. If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, please charge any deficiency to Deposit Account No. 14/1270.

Respectfully submitted,

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